

AN ORDINANCE **98752**

REAFFIRMING AND DECLARING THAT THE SAN ANTONIO WATER SYSTEM'S CASTROVILLE ROAD/S.W. 38TH STREET LIFT STATION PROJECT (PROJECT) IS A NECESSARY PUBLIC PROJECT; FURTHER REAFFIRMING AND DECLARING THAT A PUBLIC NECESSITY EXISTS FOR THE ACQUISITION OF PERMANENT EASEMENT INTERESTS ACROSS, OVER, UPON AND UNDER CERTAIN PRIVATELY OWNED REAL PROPERTY, BY NEGOTIATION AND/OR CONDEMNATION, IF NECESSARY, FOR PUBLIC IMPROVEMENTS FOR USE AS A PART OF THE PROJECT; AUTHORIZING THE SAN ANTONIO WATER SYSTEM (SAWS) TO ACQUIRE PERMANENT EASEMENT INTERESTS ACROSS, OVER, UPON AND UNDER CERTAIN PRIVATELY OWNED REAL PROPERTY DESCRIBED BELOW, BY NEGOTIATION AND/OR CONDEMNATION, IF NECESSARY, FOR PUBLIC IMPROVEMENTS FOR USE AS A PART OF THE PROJECT, TO WIT: A 0.115 ACRE PERMANENT EASEMENT AND ONE 0.344 ACRE TEMPORARY CONSTRUCTION EASEMENT, BOTH OUT OF LOT 17, N.C.B. 08991, RECORDED IN VOLUME 6343, PAGES 1383-1393, OF THE DEED AND PLAT RECORDS OF BEXAR COUNTY, TEXAS, FOR A PUBLIC PURPOSE AS PART OF THE PROJECT; AUTHORIZING SAWS, ITS EMPLOYEES, AGENTS AND/OR THEIR AUTHORIZED INDEPENDENT NEGOTIATORS TO NEGOTIATE AND EXECUTE ALL AGREEMENTS, EASEMENTS AND OTHER NECESSARY DOCUMENTS WITH THE OWNERS OF CERTAIN PRIVATELY OWNED PROPERTY DESCRIBED ABOVE, AND TO TAKE ALL OTHER LAWFUL ACTIONS NECESSARY OR INCIDENTAL TO SURVEY, SPECIFY, CLARIFY, DEFINE AND ACQUIRE THE PERMANENT AND TEMPORARY EASEMENT INTERESTS ACROSS, OVER, UPON AND UNDER CERTAIN PRIVATELY OWNED PROPERTY AS DESCRIBED ABOVE; FURTHER AUTHORIZING SAWS AND ITS ATTORNEYS TO FILE EMINENT DOMAIN PROCEEDINGS, IF NECESSARY, AND PROSECUTE ALL SUCH CONDEMNATION PROCEEDINGS THROUGH CONCLUSION (INCLUDING FINAL JUDGMENT AND ALL NECESSARY APPEALS) FOR THE CONDEMNATION OF THE PERMANENT AND TEMPORARY EASEMENT INTERESTS ACROSS, OVER, UPON AND UNDER CERTAIN PRIVATELY OWNED PROPERTY AS DESCRIBED ABOVE; APPROVING, RATIFYING AND DECLARING VALID ALL PRIOR ACTS AND PROCEEDINGS DONE OR INITIATED BY ATTORNEYS, AGENTS AND/OR EMPLOYEES ACTING FOR SAWS TO ACQUIRE SUCH PERMANENT AND TEMPORARY EASEMENT INTERESTS ACROSS, OVER, UPON AND UNDER CERTAIN PRIVATELY OWNED PROPERTY AS DESCRIBED ABOVE;

DECLARING THAT THE CONVEYANCE OF ALL SUCH PERMANENT AND TEMPORARY EASEMENT INTERESTS IN CERTAIN PRIVATELY OWNED PROPERTY AS DESCRIBED ABOVE SHALL BE TO THE CITY OF SAN ANTONIO FOR THE USE AND BENEFIT OF SAWS; PROVIDING A SEVERABILITY CLAUSE; AND ESTABLISHING AN EFFECTIVE DATE.

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WHEREAS, the public health, safety, and best interest of the City of San Antonio and its citizens require the continued construction, operation, and maintenance of a sewer lift station facility, and

WHEREAS, it is necessary to construct, operate, and maintain such a facility, the Castroville Road/S.W 38th Street Lift Station Project ("the Project") located upon certain real property which is privately owned; and

WHEREAS, the City of San Antonio acting by and through representatives of the San Antonio Water System ("SAWS") have been unable to acquire the permanent and temporary easements described in Attachment I attached hereto and incorporated herein by reference for all purposes; and

WHEREAS, the San Antonio Water System Board of Trustees (the "Board") finds that the acquisition of such easements is necessary for the public health, safety, and best interests of the citizens of the City of San Antonio and the surrounding area; and

WHEREAS, the Board requests that the City of San Antonio adopt an ordinance declaring a public necessity for the acquisition of such easements, through the filing of lawsuits when deemed necessary to construct, operate and maintain the Project, through the exercise of its eminent domain authority; and

WHEREAS, the Board further requests that the San Antonio City Council authorize the San Antonio Water System to undertake such proceedings; and

WHEREAS, the City Council of the City of San Antonio desires to (1) reaffirm and declare that the SAWS Castroville Road/S.W 38th Street Lift Station Project is a necessary public project; (2) reaffirm and declare that a public necessity exists for the acquisition of permanent and temporary easement interests across, over, upon, and under certain privately owned real property as described in Attachment I attached hereto and incorporated herein for all purposes, by negotiation and/or condemnation, if necessary, for construction of public improvements for use as a part of the Castroville Road/S.W.38th Street Lift Station Project; (3) authorize SAWS to acquire permanent and temporary easement interests by negotiation and/or condemnation, if necessary, for construction of public improvements for use as part of the Castroville Road/S.W. 38th Street Lift Station Project; (4) authorize SAWS, its employees, agents and/or their authorized independent negotiators to negotiate and execute all agreements, easements, and other necessary documents with the owners of certain privately owned property as described in the referenced Attachment I and to take all other

lawful actions necessary or incidental to survey, specify, clarify, define, and acquire the permanent and temporary easement interest across, over, upon, and under certain privately owned properties as described in the referenced Attachment I; (5) further authorize SAWS and its attorneys to file eminent domain proceedings, if necessary, and prosecute all such condemnation proceedings through conclusion (including final judgment and all necessary appeals) for the condemnation of these permanent and temporary easement interests across, over, upon, and under certain privately owned property as described in the referenced Attachment I; (6) approve, ratify, and declare valid all prior acts and proceedings done or initiated by attorneys, agents, and employees of and/or acting for SAWS to acquire such permanent and temporary easement interests across, over, upon, and under certain privately owned property as described in the referenced Attachment I; and (7) declare that the conveyance of all such permanent and temporary easement interest in certain privately owned property as described in the referenced Attachment I, shall be to the City of San Antonio for the use and benefit of SAWS; **NOW THEREFORE:**

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SAN ANTONIO:

SECTION 1. City Council hereby reaffirms and declares that the San Antonio Water System's (SAWS) Castroville Road/S.W.38th Street Lift Station Project is a necessary public interest project.

SECTION 2. It is hereby further reaffirmed and declared that a public necessity exists for the acquisition of these permanent and temporary easement interests in certain privately owned property as described in Attachment I attached hereto and incorporated herein by reference for all purposes, by negotiation and/or condemnation, if necessary, for public improvements for use as part of the Castroville Road/S.W. 38th Street Lift Station Project.

SECTION 3. The San Antonio Water System (SAWS), acting on behalf of the City of San Antonio, is authorized as follows: (1) SAWS is authorized to acquire permanent and temporary easement interest by negotiation and/or condemnation, if necessary, for public improvements for use as a part of the Castroville Road/S.W. 38th Street Lift Station Project; (2) SAWS, its employees, agents, and/or their authorized independent negotiators are authorized to negotiate and execute all agreements, easements, and other necessary documents with the owners of certain privately owned property as described in the referenced Attachment I and to take all other lawful actions necessary or incidental to survey, specify, clarify, define, and acquire the permanent and temporary easement interests across, over, upon, and under certain privately owned property as described in the referenced Attachment I; (3) SAWS and its attorneys are authorized to file through conclusion (including final judgment and all necessary appeals) for the condemnation of the permanent and temporary easement interests across, over, upon, and under certain privately owned property as described in the referenced Attachment I; (4) SAWS is authorized to approve, ratify, and declare valid all prior acts and proceedings done or initiated by attorneys, agents, and employees of and/or acting for SAWS to acquire such permanent and temporary easement interests across, over, upon, and under certain privately owned property as described in the referenced Attachment I; and (5) SAWS is authorized to declare that the conveyance of all such permanent and temporary easement interests in certain privately owned property as described in the referenced Attachment I shall be to the City of San Antonio for the use and benefit of SAWS.

SECTION 4. All prior acts and proceedings done or initiated by attorneys, agents, and employees of and/or acting for the San Antonio Water System to acquire such permanent and temporary easement interests are hereby approved and ratified.

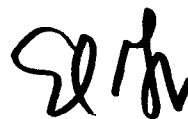
SECTION 5. The conveyance of the permanent and temporary easements shown and described in Attachment I attached hereto and incorporated herein for all purposes, shall be to the City of San Antonio for the use and benefit of the San Antonio Water System.

SECTION 6. It is officially found, determined, and declared, that the meeting at which this Ordinance is adopted was open to the public, and that public notice of the time, place, and subject matter of the public business to be conducted at such meeting, including this Ordinance, was given to all as required by the Texas Codes Annotated, as amended, title 5, Chapter 551, Government Code.

SECTION 7. If any part, section, paragraph, sentence, phrase, or word of this Ordinance is for any reason held to be unconstitutional, illegal, inoperative, or invalid, or if any exception to or limitation upon any general provision herein contained is held to be unconstitutional, illegal, invalid or ineffective, the remainder of this Ordinance shall nevertheless stand effective and valid as if it had been enacted without the portion held to be unconstitutional, illegal, invalid or ineffective.

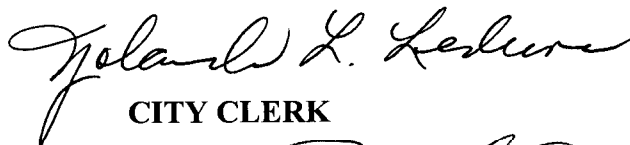
SECTION 8. This Ordinance shall be effective immediately if it receives eight affirmative votes. Otherwise, it shall be effective on February 8, 2004.

PASSED AND APPROVED this the 29th day of January, 2004.

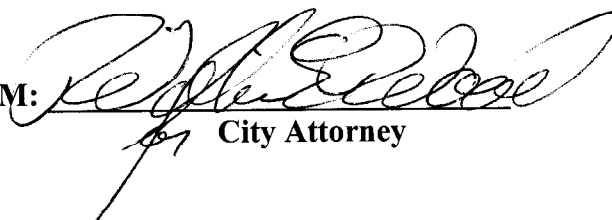


M A Y O R
EDWARD D. GARZA

ATTEST:


CITY CLERK

APPROVED AS TO FORM:


City Attorney